

U.S. Patent Application Serial No. **10/566,273**
Response filed October 14, 2008
Reply to OA dated July 18, 2008

AMENDMENT TO THE DRAWINGS:

The attached sheets of drawings include changes to Figs. 11-13. These sheets replace the original sheets including Figs. 11-13. In Figs. 11-13, the legend "Related Art" is added.

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REMARKS

Claims 1, 3-10, and 12-16 are currently being examined, of which claims 1, 3, 5, and 9 have been amended herein. Claims 2 and 11 have been canceled herein without prejudice or disclaimer as to their subject matter.

1. The Examiner has objected to Figures 11-13 and has suggested that such drawings should be designated by a legend such as "prior art."

Applicants respectfully traverse this objection, for the following reasons.

The Examiner has suggested adding a label such as "prior art" to Figures 11-13. However, under U.S. patent practice, the term "prior art" has a **special meaning as defined by 35 USC 102 and 103.**

In the subject application, Figures 11-13 are related to a "Background Technique" and to "conventional" compressors. In the subject application, those drawings are not explicitly described using the phrase "prior art."

Certain art may be considered to be "conventional" to one inventive entity, but not to the public in general in some circumstances. This is the case, for example, when an inventor has made

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an improvement on his or her own prior invention. An inventor's own foundational work should not, unless there is a statutory bar, be treated as "prior art" solely because knowledge of this work is admitted. In view of the above, it may be argued that "conventional art" is not always the same as "prior art."

Firstly, the Examiner has not shown that Figures 11-13 satisfy any of the criteria required by 35 USC 102 or 103 for a drawing to be considered as "prior art." For example, in the objection to Figures 11-13, the Examiner did not cite any **printed publication describing Figures 11-13 more than one year prior to the date afforded the subject application.**

Secondly, the Examiner has not identified any portion of the disclosure of the subject application which identified Figures 11-13 by explicitly using the phrase "prior art."

The label "Related Art" has been added to Figures 11-13. The label "Related Art" on Figures 11-13 adequately shows that Figures 11-13 do not depict all the features set forth in the claims of the subject application.

Accordingly, in view of the above, Applicants respectfully submit that this objection should be withdrawn.

2. The Examiner has rejected claims 1-7, 9, 10, 14, and 15 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,494,412 (**Shin '412**).

Applicants respectfully traverse this rejection, for the following reasons.

Shin '412 discloses oil separating net 20, oil separating net 30, and oil separating net 40 in a motor outer space S3 inside compressor casing 1 (Figure 3; column 3, lines 47-52). The oil separating nets 20, 30, and 40 appear to contact an upper wall of casing 1. Also, the oil separating nets 20, 30, and 40 appear to contact a lower wall of casing 1.

In **Shin '412** and **Yakumaru '719**, their compressors are of a lateral type, and their discharge pipes are located close to the oil level, so that oil easily flows out to the discharge pipes (see the discharge pipe 10a in Fig. 3 of **Shin '412** and the discharge pipe 31 in Fig. 1 of **Yakumaru '719**).

To the contrary, in the subject application, the compressor is of a vertical type; the space where the discharge pipe 20 exists and the space (lower side) where the oil level exists are separated by the motor; and the floating type wave-suppressing member is further provided on the oil level. Therefore, the amount of oil to be discharged from the container can be reduced.

Shin '412 fails to anticipate the combination of features set forth in claim 1, as amended.

For example, **Shin '412** fails to expressly or inherently describe at least the following features set forth in claim 1, as amended, in combination with the other claimed features:

a compressor mechanism which is disposed in a lower portion of said container for compressing working fluid, a motor which is disposed in an upper portion of said compressor mechanism for driving said compressor mechanism, a discharge pipe which is disposed in an upper space of the said motor for discharging the compressed working fluid, ... wherein a floating type wave-suppressing member is provided in an interface between the working fluid and the refrigeration oil of said reservoir, wherein said wave-suppressing member comprises a divided member which extends astride said interface to divide said interface into a plurality of pieces, wherein said divided member is spaced apart from a lower wall of said container.

Applicants respectfully submit that this rejection of claim 1 should be withdrawn. It is submitted that this rejection of claims 3-7, 9, 10, 14, and 15 should be withdrawn by virtue of their dependency. This rejection of claim 2 is moot and should be withdrawn.

3. The Examiner has rejected claims 1, 11, and 12 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent 6,167,719 (Yakumaru '719).

Applicants respectfully traverse this rejection, for the following reasons.

In **Shin '412** and **Yakumaru '719**, their compressors are of a lateral type, and their discharge pipes are located close to the oil level, so that oil easily flows out to the discharge pipes (see the discharge pipe 10a in Fig. 3 of **Shin '412** and the discharge pipe 31 in Fig. 1 of **Yakumaru '719**).

To the contrary, in the subject application, the compressor is of a vertical type; the space where the discharge pipe 20 exists and the space (lower side) where the oil level exists are separated by the motor; and the floating type wave-suppressing member is further provided on the oil level. Therefore, the amount of oil to be discharged from the container can be reduced.

Yakumaru '719 fails to anticipate the combination of features set forth in claim 1, as amended. For example, **Yakumaru '719** fails to expressly or inherently describe at least the following features set forth in claim 1, as amended, in combination with the other claimed features:

a compressor mechanism which is disposed in a lower portion of said container for compressing working fluid, a motor which is disposed in an upper portion of said compressor mechanism for driving said compressor mechanism, a discharge pipe which is disposed in an upper space of the said motor for discharging the compressed working fluid, ... wherein a floating type wave-suppressing member is provided in an interface between the working fluid and the refrigeration oil of said reservoir, wherein said wave-suppressing member comprises a divided member which extends astride said interface to divide said interface into a plurality of pieces, wherein said divided member is spaced apart from a lower wall of said container.

Applicants respectfully submit that this rejection of claim 1 should be withdrawn. It is

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submitted that this rejection of claim 12 should be withdrawn by virtue of its dependency. This rejection of claim 11 is moot and should be withdrawn.

4. The Examiner has rejected claims 1, 7, and 8 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,176,506 (Siebel '506).

Applicants respectfully traverse this rejection, for the following reasons.

Siebel '506 fails to anticipate the combination of features set forth in claim 1, as amended.

For example, **Siebel '506** fails to expressly or inherently describe at least the following features set forth in claim 1, as amended, in combination with the other claimed features:

a compressor mechanism which is disposed in a lower portion of said container for compressing working fluid, a motor which is disposed in an upper portion of said compressor mechanism for driving said compressor mechanism, a discharge pipe which is disposed in an upper space of the said motor for discharging the compressed working fluid, ... wherein a floating type wave-suppressing member is provided in an interface between the working fluid and the refrigeration oil of said reservoir, wherein said wave-suppressing member comprises a divided member which extends astride said interface to divide said interface into a plurality of pieces, wherein said divided member is spaced apart from a lower wall of said container.

Applicants respectfully submit that this rejection of claim 1 should be withdrawn. It is submitted that this rejection of claims 7 and 8 should be withdrawn by virtue of their dependency.

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5. The Examiner has rejected claim 13 under 35 U.S.C. §103(a) as obvious over **Shin '412** in view of U.S. Patent No. 6,264,448 (**Itoh '448**).

Applicants respectfully traverse this rejection, for the following reasons.

Shin '412 and **Itoh '448**, alone or in combination, fail to describe, teach, or suggest the combination of features set forth in claim 1, as amended. For example, **Shin '412** and **Itoh '448**, alone or in combination, fail to describe, teach, or suggest at least the following features set forth in claim 1, as amended, in combination with the other claimed features:

a compressor mechanism which is disposed in a lower portion of said container for compressing working fluid, a motor which is disposed in an upper portion of said compressor mechanism for driving said compressor mechanism, a discharge pipe which is disposed in an upper space of the said motor for discharging the compressed working fluid, ... wherein a floating type wave-suppressing member is provided in an interface between the working fluid and the refrigeration oil of said reservoir, wherein said wave-suppressing member comprises a divided member which extends astride said interface to divide said interface into a plurality of pieces, wherein said divided member is spaced apart from a lower wall of said container.

Applicants respectfully submit that this rejection of claim 13 should be withdrawn by virtue of its dependency.

If, for any reason, it is felt that this application is not now in condition for allowance, the

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Examiner is requested to contact the Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,
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Enclosures: Replacement Sheets of Drawings (Figs. 11-13)